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(Original Signature of Member)

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R.** \_\_\_\_\_

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Ms. DUNN (for herself and Mr. TANNER) introduced the following bill; which  
was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Internal Revenue Code of 1986 to phaseout  
the estate and gift taxes over a 10-year period, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Death Tax Elimination  
5       Act”.



1 **TITLE I—REPEAL OF ESTATE,**  
2 **GIFT, AND GENERATION-SKIP-**  
3 **PING TAXES.**

4 **SEC. 101. PHASEOUT OF ESTATE AND GIFT TAXES.**

5 (a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle  
6 B of the Internal Revenue Code of 1986 (relating to estate  
7 and gift taxes) is repealed effective with respect to estates  
8 of decedents dying, and gifts made, after December 31,  
9 2010.

10 (b) PHASEOUT OF TAX.—Subsection (c) of section  
11 2001 of such Code (relating to imposition and rate of tax)  
12 is amended by adding at the end the following new para-  
13 graph:

14 “(3) PHASEOUT OF TAX.—In the case of es-  
15 tates of decedents dying, and gifts made, during any  
16 calendar year after 2000 and before 2011—

17 “(A) IN GENERAL.—The tentative tax  
18 under this subsection shall be determined by  
19 using a table prescribed by the Secretary (in  
20 lieu of using the table contained in paragraph  
21 (1)) which is the same as such table; except  
22 that—

23 “(i) each of the rates of tax shall be  
24 reduced (but not below zero) by the num-



1                   ber of percentage points determined under  
2                   subparagraph (B), and

3                   “(ii) the amounts setting forth the tax  
4                   shall be adjusted to the extent necessary to  
5                   reflect the adjustments under clause (i).

6                   “(B) PERCENTAGE POINTS OF REDUC-  
7                   TION.—

<b>“For calendar year:</b>	<b>The number of percentage points is:</b>
2001 .....	5
2002 .....	10
2003 .....	15
2004 .....	20
2005 .....	25
2006 .....	30
2007 .....	35
2008 .....	40
2009 .....	45
2010 .....	50.

8                   “(C) COORDINATION WITH PARAGRAPH  
9                   (2).—Paragraph (2) shall be applied by reduc-  
10                  ing the 55 percent percentage contained therein  
11                  by the number of percentage points determined  
12                  for such calendar year under subparagraph (B).

13                  “(D) COORDINATION WITH CREDIT FOR  
14                  STATE DEATH TAXES.—Rules similar to the  
15                  rules of subparagraph (A) shall apply to the  
16                  table contained in section 2011(b) except that  
17                  the number of percentage points referred to in  
18                  subparagraph (A)(i) shall be determined under  
19                  the following table:



<b>“For calendar year:</b>	<b>The number of percentage points is:</b>
2001 .....	1½
2002 .....	3
2003 .....	4½
2004 .....	6
2005 .....	7½
2006 .....	9
2007 .....	10½
2008 .....	12
2009 .....	13½
2010 .....	15.”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to estates of decedents dying, and  
3 gifts made, after December 31, 2000.

4 **TITLE II—INCREASE IN UNIFIED**  
5 **ESTATE AND GIFT TAX CREDIT.**

6 **SEC. 201. INCREASE IN UNIFIED ESTATE AND GIFT TAX**  
7 **CREDIT.**

8 (a) IN GENERAL.—The table in subsection (c) of sec-  
9 tion 2010 of the Internal Revenue Code of 1986 (relating  
10 to applicable credit amount) is amended to read as follows:

<b>“In the case of estates of decedents dying, and gifts made, during:</b>	<b>The applicable exclusion amount is:</b>
2001 .....	\$1,000,000
2002 or thereafter .....	\$1,300,000.”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to estates of decedents dying, and  
13 gifts made, after December 31, 2000.



1 **SEC. 202. REPEAL OF ESTATE TAX BENEFIT FOR FAMILY-**  
2 **OWNED BUSINESS INTERESTS.**

3 (a) IN GENERAL.—Section 2057 of the Internal Rev-  
4 enue Code of 1986 (relating to family-owned business in-  
5 terests) is hereby repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (10) of section 2031(c) of such  
8 Code is amended by inserting “(as in effect on the  
9 day before the date of the enactment of the Death  
10 Tax Elimination Act)” before the period.

11 (2) The table of sections for part IV of sub-  
12 chapter A of chapter 11 of such Code is amended by  
13 striking the item relating to section 2057.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to estates of decedents dying, and  
16 gifts made, after December 31, 2001.

17 **TITLE III—MODIFICATIONS OF**  
18 **GENERATION-SKIPPING**  
19 **TRANSFER TAX**

20 **SEC. 301. DEEMED ALLOCATION OF GST EXEMPTION TO**  
21 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**  
22 **ACTIVE ALLOCATIONS.**

23 (a) IN GENERAL.—Section 2632 of the Internal Rev-  
24 enue Code of 1986 (relating to special rules for allocation  
25 of GST exemption) is amended by redesignating sub-



1 section (c) as subsection (e) and by inserting after sub-  
2 section (b) the following new subsections:

3 “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME  
4 TRANSFERS TO GST TRUSTS.—

5 “(1) IN GENERAL.—If any individual makes an  
6 indirect skip during such individual’s lifetime, any  
7 unused portion of such individual’s GST exemption  
8 shall be allocated to the property transferred to the  
9 extent necessary to make the inclusion ratio for such  
10 property zero. If the amount of the indirect skip ex-  
11 ceeds such unused portion, the entire unused portion  
12 shall be allocated to the property transferred.

13 “(2) UNUSED PORTION.—For purposes of para-  
14 graph (1), the unused portion of an individual’s  
15 GST exemption is that portion of such exemption  
16 which has not previously been—

17 “(A) allocated by such individual,

18 “(B) treated as allocated under subsection  
19 (b) with respect to a direct skip occurring dur-  
20 ing or before the calendar year in which the in-  
21 direct skip is made, or

22 “(C) treated as allocated under paragraph  
23 (1) with respect to a prior indirect skip.

24 “(3) DEFINITIONS.—



1           “(A) INDIRECT SKIP.—For purposes of  
2           this subsection, the term ‘indirect skip’ means  
3           any transfer of property (other than a direct  
4           skip) subject to the tax imposed by chapter 12  
5           made to a GST trust.

6           “(B) GST TRUST.—The term ‘GST trust’  
7           means a trust that could have a generation-  
8           skipping transfer with respect to the transferor  
9           unless—

10           “(i) the trust instrument provides that  
11           more than 25 percent of the trust corpus  
12           must be distributed to or may be with-  
13           drawn by one or more individuals who are  
14           non-skip persons—

15           “(I) before the date that the indi-  
16           vidual attains age 46,

17           “(II) on or before one or more  
18           dates specified in the trust instrument  
19           that will occur before the date that  
20           such individual attains age 46, or

21           “(III) upon the occurrence of an  
22           event that, in accordance with regula-  
23           tions prescribed by the Secretary, may  
24           reasonably be expected to occur before



1 the date that such individual attains  
2 age 46;

3 “(ii) the trust instrument provides  
4 that more than 25 percent of the trust cor-  
5 pus must be distributed to or may be with-  
6 drawn by one or more individuals who are  
7 non-skip persons and who are living on the  
8 date of death of another person identified  
9 in the instrument (by name or by class)  
10 who is more than 10 years older than such  
11 individuals;

12 “(iii) the trust instrument provides  
13 that, if one or more individuals who are  
14 non-skip persons die on or before a date or  
15 event described in clause (i) or (ii), more  
16 than 25 percent of the trust corpus either  
17 must be distributed to the estate or estates  
18 of one or more of such individuals or is  
19 subject to a general power of appointment  
20 exercisable by one or more of such individ-  
21 uals;

22 “(iv) the trust is a trust any portion  
23 of which would be included in the gross es-  
24 tate of a non-skip person (other than the



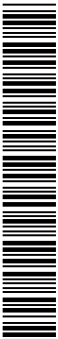


1 transferor) if such person died immediately  
2 after the transfer;

3 “(v) the trust is a charitable lead an-  
4 nuity trust (within the meaning of section  
5 2642(e)(3)(A)) or a charitable remainder  
6 annuity trust or a charitable remainder  
7 unitrust (within the meaning of section  
8 664(d)); or

9 “(vi) the trust is a trust with respect  
10 to which a deduction was allowed under  
11 section 2522 for the amount of an interest  
12 in the form of the right to receive annual  
13 payments of a fixed percentage of the net  
14 fair market value of the trust property (de-  
15 termined yearly) and which is required to  
16 pay principal to a non-skip person if such  
17 person is alive when the yearly payments  
18 for which the deduction was allowed termi-  
19 nate.

20 For purposes of this subparagraph, the value of  
21 transferred property shall not be considered to  
22 be includible in the gross estate of a non-skip  
23 person or subject to a right of withdrawal by  
24 reason of such person holding a right to with-  
25 draw so much of such property as does not ex-



1           ceed the amount referred to in section 2503(b)  
2           with respect to any transferor, and it shall be  
3           assumed that powers of appointment held by  
4           non-skip persons will not be exercised.

5           “(4) AUTOMATIC ALLOCATIONS TO CERTAIN  
6           GST TRUSTS.—For purposes of this subsection, an  
7           indirect skip to which section 2642(f) applies shall  
8           be deemed to have been made only at the close of  
9           the estate tax inclusion period. The fair market  
10          value of such transfer shall be the fair market value  
11          of the trust property at the close of the estate tax  
12          inclusion period.

13          “(5) APPLICABILITY AND EFFECT.—

14               “(A) IN GENERAL.—An individual—

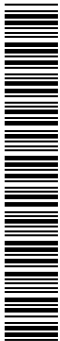
15                   “(i) may elect to have this subsection  
16                   not apply to—

17                           “(I) an indirect skip, or

18                           “(II) any or all transfers made  
19                           by such individual to a particular  
20                           trust, and

21                   “(ii) may elect to treat any trust as a  
22                   GST trust for purposes of this subsection  
23                   with respect to any or all transfers made  
24                   by such individual to such trust.

25               “(B) ELECTIONS.—



1           “(i) ELECTIONS WITH RESPECT TO  
2           INDIRECT SKIPS.—An election under sub-  
3           paragraph (A)(i)(I) shall be deemed to be  
4           timely if filed on a timely filed gift tax re-  
5           turn for the calendar year in which the  
6           transfer was made or deemed to have been  
7           made pursuant to paragraph (4) or on  
8           such later date or dates as may be pre-  
9           scribed by the Secretary.

10           “(ii) OTHER ELECTIONS.—An election  
11           under clause (i)(II) or (ii) of subparagraph  
12           (A) may be made on a timely filed gift tax  
13           return for the calendar year for which the  
14           election is to become effective.

15           “(d) RETROACTIVE ALLOCATIONS.—

16           “(1) IN GENERAL.—If—

17           “(A) a non-skip person has an interest or  
18           a future interest in a trust to which any trans-  
19           fer has been made,

20           “(B) such person—

21           “(i) is a lineal descendant of a grand-  
22           parent of the transferor or of a grand-  
23           parent of the transferor’s spouse or former  
24           spouse, and



1                   “(ii) is assigned to a generation below  
2                   the generation assignment of the trans-  
3                   feror, and

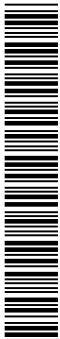
4                   “(C) such person predeceases the trans-  
5                   feror,

6                   then the transferor may make an allocation of any  
7                   of such transferor’s unused GST exemption to any  
8                   previous transfer or transfers to the trust on a  
9                   chronological basis.

10                  “(2) SPECIAL RULES.—If the allocation under  
11                  paragraph (1) by the transferor is made on a gift  
12                  tax return filed on or before the date prescribed by  
13                  section 6075(b) for gifts made within the calendar  
14                  year within which the non-skip person’s death  
15                  occurred—

16                  “(A) the value of such transfer or trans-  
17                  fers for purposes of section 2642(a) shall be de-  
18                  termined as if such allocation had been made  
19                  on a timely filed gift tax return for each cal-  
20                  endar year within which each transfer was  
21                  made,

22                  “(B) such allocation shall be effective im-  
23                  mediately before such death, and



1           “(C) the amount of the transferor’s unused  
2           GST exemption available to be allocated shall  
3           be determined immediately before such death.

4           “(3) FUTURE INTEREST.—For purposes of this  
5           subsection, a person has a future interest in a trust  
6           if the trust may permit income or corpus to be paid  
7           to such person on a date or dates in the future.”.  
8           (b) CONFORMING AMENDMENT.—Paragraph (2) of  
9           section 2632(b) of such Code is amended by striking “with  
10          respect to a direct skip” and inserting “or subsection  
11          (c)(1)”.

12          (c) EFFECTIVE DATES.—

13           (1) DEEMED ALLOCATION.—Section 2632(c) of  
14           the Internal Revenue Code of 1986 (as added by  
15           subsection (a)), and the amendment made by sub-  
16           section (b), shall apply to transfers subject to chap-  
17           ter 11 or 12 made after December 31, 1999, and to  
18           estate tax inclusion periods ending after December  
19           31, 1999.

20           (2) RETROACTIVE ALLOCATIONS.—Section  
21           2632(d) of the Internal Revenue Code of 1986 (as  
22           added by subsection (a)) shall apply to deaths of  
23           non-skip persons occurring after December 31,  
24           1999.



1 **SEC. 302. SEVERING OF TRUSTS.**

2 (a) IN GENERAL.—Subsection (a) of section 2642 of  
3 the Internal Revenue Code of 1986 (relating to inclusion  
4 ratio) is amended by adding at the end the following new  
5 paragraph:

6 “(3) SEVERING OF TRUSTS.—

7 “(A) IN GENERAL.—If a trust is severed in  
8 a qualified severance, the trusts resulting from  
9 such severance shall be treated as separate  
10 trusts thereafter for purposes of this chapter.

11 “(B) QUALIFIED SEVERANCE.—For pur-  
12 poses of subparagraph (A)—

13 “(i) IN GENERAL.—The term ‘quali-  
14 fied severance’ means the division of a sin-  
15 gle trust and the creation (by any means  
16 available under the governing instrument  
17 or under local law) of two or more trusts  
18 if—

19 “(I) the single trust was divided  
20 on a fractional basis, and

21 “(II) the terms of the new trusts,  
22 in the aggregate, provide for the same  
23 succession of interests of beneficiaries  
24 as are provided in the original trust.

25 “(ii) TRUSTS WITH INCLUSION RATIO  
26 GREATER THAN ZERO.—If a trust has an



1 inclusion ratio of greater than zero and  
2 less than 1, a severance is a qualified sev-  
3 erance only if the single trust is divided  
4 into two trusts, one of which receives a  
5 fractional share of the total value of all  
6 trust assets equal to the applicable fraction  
7 of the single trust immediately before the  
8 severance. In such case, the trust receiving  
9 such fractional share shall have an inclu-  
10 sion ratio of zero and the other trust shall  
11 have an inclusion ratio of 1.

12 “(iii) REGULATIONS.—The term  
13 ‘qualified severance’ includes any other  
14 severance permitted under regulations pre-  
15 scribed by the Secretary.

16 “(C) TIMING AND MANNER OF  
17 SEVERANCES.—A severance pursuant to this  
18 paragraph may be made at any time. The Sec-  
19 retary shall prescribe by forms or regulations  
20 the manner in which the qualified severance  
21 shall be reported to the Secretary.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall apply to severances after December 31,  
24 1999.



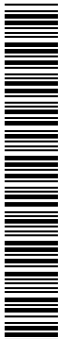
1 **SEC. 303. MODIFICATION OF CERTAIN VALUATION RULES.**

2 (a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR  
3 DEEMED ALLOCATION MADE.—Paragraph (1) of section  
4 2642(b) of such Code (relating to valuation rules, etc.)  
5 is amended to read as follows:

6 “(1) GIFTS FOR WHICH GIFT TAX RETURN  
7 FILED OR DEEMED ALLOCATION MADE.—If the allo-  
8 cation of the GST exemption to any transfers of  
9 property is made on a gift tax return filed on or be-  
10 fore the date prescribed by section 6075(b) for such  
11 transfer or is deemed to be made under section 2632  
12 (b)(1) or (c)(1)—

13 “(A) the value of such property for pur-  
14 poses of subsection (a) shall be its value as fi-  
15 nally determined for purposes of chapter 12  
16 (within the meaning of section 2001(f)(2)), or,  
17 in the case of an allocation deemed to have been  
18 made at the close of an estate tax inclusion pe-  
19 riod, its value at the time of the close of the es-  
20 tate tax inclusion period, and

21 “(B) such allocation shall be effective on  
22 and after the date of such transfer, or, in the  
23 case of an allocation deemed to have been made  
24 at the close of an estate tax inclusion period, on  
25 and after the close of such estate tax inclusion  
26 period.”.





1 (b) TRANSFERS AT DEATH.—Subparagraph (A) of  
2 section 2642(b)(2) of such Code is amended to read as  
3 follows:

4 “(A) TRANSFERS AT DEATH.—If property  
5 is transferred as a result of the death of the  
6 transferor, the value of such property for pur-  
7 poses of subsection (a) shall be its value as fi-  
8 nally determined for purposes of chapter 11; ex-  
9 cept that, if the requirements prescribed by the  
10 Secretary respecting allocation of post-death  
11 changes in value are not met, the value of such  
12 property shall be determined as of the time of  
13 the distribution concerned.”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to transfers subject to chapter 11  
16 or 12 of the Internal Revenue Code of 1986 made after  
17 December 31, 1999.

18 **SEC. 304. RELIEF PROVISIONS.**

19 (a) IN GENERAL.—Section 2642 of such Code is  
20 amended by adding at the end the following new sub-  
21 section:

22 “(g) RELIEF PROVISIONS.—

23 “(1) RELIEF FROM LATE ELECTIONS.—

24 “(A) IN GENERAL.—The Secretary shall by  
25 regulation prescribe such circumstances and



1 procedures under which extensions of time will  
2 be granted to make—

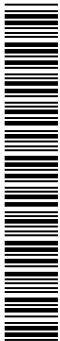
3 “(i) an allocation of GST exemption  
4 described in paragraph (1) or (2) of sub-  
5 section (b), and

6 “(ii) an election under subsection  
7 (b)(3) or (c)(5) of section 2632.

8 Such regulations shall include procedures for  
9 requesting comparable relief with respect to  
10 transfers made before the date of the enactment  
11 of this paragraph.

12 “(B) BASIS FOR DETERMINATIONS.—In  
13 determining whether to grant relief under this  
14 paragraph, the Secretary shall take into ac-  
15 count all relevant circumstances, including evi-  
16 dence of intent contained in the trust instru-  
17 ment or instrument of transfer and such other  
18 factors as the Secretary deems relevant. For  
19 purposes of determining whether to grant relief  
20 under this paragraph, the time for making the  
21 allocation (or election) shall be treated as if not  
22 expressly prescribed by statute.

23 “(2) SUBSTANTIAL COMPLIANCE.—An alloca-  
24 tion of GST exemption under section 2632 that  
25 demonstrates an intent to have the lowest possible



1 inclusion ratio with respect to a transfer or a trust  
2 shall be deemed to be an allocation of so much of  
3 the transferor's unused GST exemption as produces  
4 the lowest possible inclusion ratio. In determining  
5 whether there has been substantial compliance, all  
6 relevant circumstances shall be taken into account,  
7 including evidence of intent contained in the trust  
8 instrument or instrument of transfer and such other  
9 factors as the Secretary deems relevant.”.

10 (b) EFFECTIVE DATES.—

11 (1) RELIEF FROM LATE ELECTIONS.—Section  
12 2642(g)(1) of the Internal Revenue Code of 1986  
13 (as added by subsection (a)) shall apply to requests  
14 pending on, or filed after, December 31, 1999.

15 (2) SUBSTANTIAL COMPLIANCE.—Section  
16 2642(g)(2) of such Code (as so added) shall apply  
17 to transfers subject to chapter 11 or 12 of the Inter-  
18 nal Revenue Code of 1986 made after December 31,  
19 1999. No implication is intended with respect to the  
20 availability of relief from late elections or the appli-  
21 cation of a rule of substantial compliance on or be-  
22 fore such date.



1   **TITLE IV—EXTENSION OF TIME**  
2   **FOR PAYMENT OF ESTATE TAX**

3   **SEC. 401. INCREASE IN NUMBER OF ALLOWABLE PARTNERS**  
4                   **AND SHAREHOLDERS IN CLOSELY HELD**  
5                   **BUSINESSES.**

6       (a) IN GENERAL.—Paragraphs (1)(B)(ii), (1)(C)(ii),  
7   and (9)(B)(iii)(I) of section 6166(b) of the Internal Rev-  
8   enue Code of 1986 (relating to definitions and special  
9   rules) are each amended by striking “15” and inserting  
10   “75”.

11       (b) EFFECTIVE DATE.—The amendments made by  
12   this section shall apply to estates of decedents dying, and  
13   gifts made, after December 31, 2000.

